REMARKS/ARGUMENTS

GENERAL

Claims 1, 2, 4-16, 25, 26, 28, and 33-43 are pending in this application. Claim 38 is allowed. Claim 1 has been amended herein. Claims 2-3, 17-24, 27, and 29-32 have been cancelled either previously or in this Amendment. Claims 25, 26, 28, 33, 35-37 and 39-43 have been withdrawn either previously or in this Amendment. Claims 1, 2, 4-16, and 34 stand rejected. The issues raised in the final Office Action of January 12, 2010 ("Current Action") are as follows:

* Claims 1-2, and 4-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with written description;
* Claims 1-2, and 4-16 are rejected under 35 U.S.C. 112, second paragraph, as failing to particularly point out and distinctly claim the subject matter;
* Claims 1-2 and 4-16 are rejected under 35 U.S.C. § 102(b) as being anticipated; and
* Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable.

In response, Applicant respectfully traverses the outstanding claim rejections and requests reconsideration and withdrawal in light of the remarks presented herein.

REJECTIONS UNDER 35 § U.S.C. § 112

Claims 1, 2, and 4-16 are rejected under 35 U.S.C. § 112. Applicant submits that claims 1 and 4-16 as amended fully comply with 35 U.S.C. § 112 first and second paragraphs. Applicant respectfully requests the withdrawal of the rejections.

REJECTIONS UNDER 35 U.S.C. § 102

Claims 1-2 and 4-16 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,228,506 to Hosatte (hereinafter Hosatte).

The Hosatte does not identically disclose every element of the claimed invention. See *Corning Glass Works v. Sumitomo Electric*, 9 USPQ 2d 1962, 1965 (Fed. Cir. 1989). A reference that excludes a claimed element, no matter how insubstantial or obvious, is enough to negate anticipation. *Connell v. Sears, Roebuck & Co.*, 220 USPQ 193, 198 (Fed. Cir. 1983).

Specifically, Hosatte does not disclose a water/air contact medium for use in an evaporative cooler, comprising a corrugated fibrous sheet material comprising at least a top layer and a bottom layer in contact at one or more regions to form at least two channels between the top layer and the bottom layer for air and fluid flow; and a water insoluble thermoplastic compound that impregnates the corrugated fibrous sheet material, wherein the water insoluble thermoplastic compound consisting essentially of one or more water insoluble cationic polymers made of polyamideimide and polystyrene monomers with one or more cationic groups pendent to the one or more water insoluble amorphous cationic polymers to give an overall positive charge to inhibit deposition of one or more dissolved or particulate contaminants, wherein the water insoluble thermoplastic compound also has a surface tension between about 20 and 70 dynes/cm and an interfacial tension with in-service water between zero and about 30 dynes/cm.

Applicant respectfully submits that claims 1-2, 13-17 and 19-30 are not anticipated by Hosatte. Hosatte does not contain each and every limitation of the present invention. Applicant respectfully requests the Examiner withdraw the rejection under 35 U.S.C. § 102(b).

REJECTIONS UNDER 35 U.S.C. § 103

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hosette in view of U.S. Patent No. 6,585,989 to Herbst et al. (hereinafter Herbst). Applicant respectfully submits that claim 33 meets the standard of 35 U.S.C. § 103(a).

To render a claim unpatentable under 35 U.S.C. § 103, all the claim limitations must be taught by the prior art, M.P.E.P. § 2143.03. Moreover, the Examiner must provide analysis supporting any rationale why a person skilled in the art would combine the prior art to arrive at the claimed invention, and "[such] analysis should be made explicit," *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 82 U.S.P.Q.2d 1385 (2007). The Examiner bears the initial burden of

factually supporting any *prima facie* conclusion of obviousness, M.P.E.P. § 2142; In re *Peehs,* 204 U.S.P.Q. 835, 837 (CCPA 1980). As the applied art does not meet all the claim limitations and the Examiner has not provided proper analysis supporting rationale why a person skilled in the art would have combined the applied art to arrive at the claimed invention, a *prima facie* case of obviousness has not been established with respect to the present claims. The combination of Hosatte and Herbst fails to teach each and every limitation of the present invention. As stated above Hosatte fails to disclose each and every limitation of the present invention and the addition of Herbst does not cure this deficiency.

Accordingly, claim 33 is not rendered obvious from the combination of Hosatte, and Herbst. Applicant respectfully requests the Examiner withdraw the rejection under 35 U.S.C. § 103(a).

CONCLUSION

In light of the remarks and arguments presented above, Applicants respectfully submit that the claims in the Application are in condition for allowance. Favorable consideration and allowance of the pending claims 1, 4-16, 34, and 38 are therefore respectfully requested.

In view of the above, Applicant believes the pending Application is in condition for allowance. Applicant believes this paper is being filed with all required fees. However, if any additional fee is due, including those for an extension of time please charge any fees required or credit any overpayment to Chalker Flores, LLP's Deposit Account No. 50-4863 during the pendency of this Application pursuant to 37 CFR 1.16 through 1.21 inclusive, and any other section in Title 37 of the Code of Federal Regulations that may regulate fees. If an extension of time is required with this response but is not included, Applicant hereby petitions for a Request for Extension of Time under 37 CFR 1.136(a).

If the Examiner has any questions or comments, or if further clarification is required, it is requested that the Examiner contact the undersigned at the telephone number listed below.

Dated: July 12, 2010

Respectfully submitted,
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